

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ESTATE OF JLA,

Plaintiff

-vs-

THE TOWN OF DEWITT,
THE TOWN OF DEWITT POLICE DEPARTMENT,
LUCAS BYRON, Individually,
MATTHEW MENARD, Individually,
COUNTY OF ONONDAGA,
ONONDAGA COUNTY SHERIFF'S DEPARTMENT,
AMY BOLLINGER, Individually and
COREY FIKE, Individually,

Defendants

NOTICE OF REMOVAL

Civil Action No.:
5:22-cv-287 (MAD/ATB)

PLEASE TAKE NOTICE, that Defendants, The Town of Dewitt, The Town of Dewitt Police Department, Lucas Byron, Individually and Matthew Menard, Individually ("Defendants"), by and through their attorneys, Sugarman Law Firm, LLP, hereby files this Notice of Removal seeking removal of this action from Supreme Court of the State of New York, County of Onondaga (Onondaga County Index No. 001367/2022) ("the State Court action") to the United States District Court, Northern District of New York.

In support of the request for removal, Defendants, by and through its attorneys, respectfully states the following:

1. Pursuant to 28 U.S.C. § 1446(a), attached hereto and made a part hereof as **Exhibit A** is an Index of all process, pleadings, and orders served in the State Court action. The documents

listed in chronological order within the Index are also annexed hereto individually and are as follows:

- Redacted Summons & Complaint, filed February 28, 2022 (a copy of which is attached hereto as **Exhibit B**);
- Redacted Letters of Administration de Bonis Non, filed February 28, 2022 (a copy of which is attached hereto as **Exhibit C**);
- Redacted Verified Notice of Claim against The Town of Dewitt and Town of Dewitt Police Department with Affidavits of Service, filed February 28, 2022 (a copy of which is attached hereto as **Exhibit D**);
- Redacted Verified Notice of Claim against County of Onondaga and Onondaga County Sheriff's Department with Affidavits of Service, filed February 28, 2022 (a copy of which is attached hereto as **Exhibit E**);
- Redacted Verified Answer on behalf of County of Onondaga and Amy Bollinger, filed March 15, 2022 (a copy of which is attached hereto as **Exhibit F**);
- Email from John E. Heisler, Jr., Chief Deputy County Attorney consenting to the Removal dated March 25, 2022 (a copy of which is attached hereto as **Exhibit G**).

2. Upon information and belief, the foregoing constitutes all process, pleadings, and orders allegedly served upon the parties in this action. I would note no there are no affidavits of service filed with the Court as of this date.

3. The State Court action was commenced in the Supreme Court of the State of New York, Onondaga County, on February 28, 2022 by the filing of a Summons & Complaint. See Exhibit B. The State Court action is a civil action wherein Plaintiff alleges assault, battery, wrongful death, outrageous conduct, negligent hiring/retention/training, excessive use of Force 42 U.S.C. §1983 as employees and individually and 42 U.S.C. §1983 Monell liability and punitive damages. See Exhibit B.

4. Pursuant to New York Civil Practice Law and Rules §3017(c), the monetary amount to which Plaintiff deems entitled was not included in the Summons & Complaint. See Exhibit B.

5. The above-entitled action is a civil suit for damages for the violation decedent's rights and arises under 42 U.S.C. §1983, in that the Plaintiff seeks redress of Fourth Amendment Rights from each Defendant, as more fully appears in the copy of the Complaint filed and attached to this notice as Exhibit B.

6. This Court, therefore, has original jurisdiction of the above-entitled action pursuant to 28 U.S.C. §1331, and removal of the action to this Court is proper pursuant to 28 U.S.C. §1441(b)

7. In accordance with the requirements set forth in 28 U.S.C. §1446, this Notice of Removal is being filed within thirty (30) days of receipt by Defendants of a copy of a pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.

8. By reason of all of the foregoing, Defendants' desire and is entitled to have the civil action removed from the Supreme Court of the State of New York, County of Onondaga to the United States District Court for the Northern District of New York, which encompasses the venue where the State Court action is pending.


9. I have conferred with the County of Onondaga and Amy Bollinger's counsel John E. Heisler Jr. and he consents to the removal of this matter to Federal Court. There has no appearance as of this date on behalf of Corey Fike .

10. A copy of this Notice of Removal is being served upon Plaintiff and filed with the Clerk of the Supreme Court, County of Onondaga, as required by 28 U.S.C. §1446(d), and proof of said filing will be transmitted to this Court once effectuated.

WHEREFORE, Defendants respectfully requests that the civil action pending against them in the Supreme Court of the State of New York, County of Onondaga be removed and proceed in

this Court as an action properly removed to it, along with such other, further and different relief as is just and proper.

DATED: March 25, 2022



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